

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

DARYL J. BELTER

Plaintiff,

V.

**JANET NAPOLITANO, SECRETARY,
DEPARTMENT OF HOMELAND
SECURITY, FEDERAL EMERGENCY
MANAGEMENT AGENCY**

Defendants.

C.A. No.

COMPLAINT

This is an action under the Freedom of Information Act, 5 U.S.C. § 552, seeking the disclosure and release of agency records improperly withheld from plaintiff by defendant, Janet Napolitano, Secretary, Department of Homeland Security (“DHS”) and its component Federal Emergency Management Agency (“FEMA”).

Jurisdiction and Venue

1.

This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(B). This Court also has jurisdiction over this action pursuant to 28 U.S.C. § 1331. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B). The records in question concern defendant’s offices in New Orleans, Louisiana and most were generated by it employees located in New Orleans, Louisiana.

2.

Plaintiff, Daryl J. Belter is a resident of the full age and majority of the Parish of East Baton Rouge, State of Louisiana.

3.

Defendant DHS is a Department of the Executive Branch of the United States Government, and includes the component entity FEMA.

4.

Plaintiff's FOIA Request and Defendants' Failure to Respond

By letter to DHS/FEMA dated October 9, 2011 plaintiff submitted Freedom of Information Act ("FOIA") request for numerous documents and emails relating to his employment with DHS/FEMA. This list of documents and emails requested is attached hereto as Exhibit "A".

5.

Defendant DHS/FEMA's Failure to Timely Comply with Plaintiff's Request

By letter dated October 28, 2011 defendant informed plaintiff that it would require an additional ten (10) days to comply due the number of open requests ahead of plaintiff's.

6.

By phone call defendant informed plaintiff that their computer system was down and they could not access the information at that time and to allow an additional two weeks for the request to be processed.

7.

To date, defendant DHS/FEMA has not provided the records requested by plaintiff in its FOIA request, notwithstanding the FOIA's requirement of an agency response within twenty

(20) working days.

8.

Plaintiff has exhausted the applicable administrative remedies with respect to its FOIA request to defendant DHS/FEMA.

9.

Defendant has wrongfully withheld the requested records from plaintiff.

Requested Relief

WHEREFORE, plaintiff prays that this Court:

- a. Order defendants to disclose the requested records in their entireties and make copies available to plaintiff;
- b. Provide for expeditious proceedings in this action;
- c. Award plaintiff its costs and reasonable attorneys fees incurred in this action; and
- d. Grant such other relief as the Court may deem just and proper.

Respectfully submitted,

AVANT & FALCON

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